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Details:

(FORM UPDATED: 08/11/2010)

WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

2009-10

(session year)

Senate

(Assembly, Senate or Joint)

Committee on ... Labor, Elections, and Urban Affairs (SC-LEUA)

COMMITTEE NOTICES ...

- Committee Reports ... CR
- Executive Sessions ... ES
- Public Hearings ... PH

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... Appt (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... CRule (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)

(ab = Assembly Bill)

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(ajr = Assembly Joint Resolution)

(**sb** = Senate Bill)

(**sr** = Senate Resolution)

(sjr = Senate Joint Resolution)

Miscellaneous ... Misc

Senate

Record of Committee Proceedings

Committee on Labor, Elections and Urban Affairs

Senate Bill 49

Relating to: changing the procedures for filling vacant civil service positions in the city of Milwaukee.

By Senators Taylor and Plale; cosponsored by Representatives Sinicki, Richards, Toles, Fields, A. Williams, Young, Zepnick, Turner, Grigsby and Kessler.

February 11, 2009

Referred to Committee on Labor, Elections and Urban Affairs.

March 19, 2009

PUBLIC HEARING HELD

Present:

(5) Senators Coggs, Wirch, Lehman, A. Lasee and

Grothman.

Absent:

(0) None.

Appearances For

- Lena Taylor Senator
- Maria Monteagudo City of Milwaukee

Appearances Against

• None.

Appearances for Information Only

• None.

Registrations For

- Christine Sinicki Representative
- Jeff Plale Senator
- Jennifer Gonda City of Milwaukee

Registrations Against

• None.

Registrations for Information Only

• None.

April 14, 2009 **EXECUTIVE SESSION HELD**

Present: (5) Senators Coggs, Wirch, Lehman, A. Lasee and

Grothman.

Absent: (0) None.

Moved by Senator Wirch, seconded by Senator Coggs that **Senate Bill 49** be recommended for passage.

Ayes:

(4) Senators Coggs, Wirch, Lehman and A.

Lasee.

Noes:

(1) Senator Grothman.

PASSAGE RECOMMENDED, Ayes 4, Noes 1

Adam Plotkin Committee Clerk

Vote Record Committee on Labor, Elections and Urban Affairs

| Date: Tuesday, April 14, 2009 | | | , | | | | | |
|--|--|--|--------------------|---------------|------------|--|--|--|
| Moved by: WILCH | Seconded | oy: | 7 | | | | | |
| AB SI | 349 | _ Clearingh | Clearinghouse Rule | | | | | |
| AJRS | R Appointment | | | | | | | |
| AR SI | ₹ | | | | | | | |
| A/S Amdt | | | | | | | | |
| A/S Amdt | to A/S Amdt | ······ | | | | | | |
| A/S Sub Amdt | ###################################### | | | | | | | |
| A/S Amdt | to A/S Sub Amdt | | | | | | | |
| A/S Amdt | to A/S Amdt | 16.1 | to A/S Sub Amdt | | | | | |
| Be recommended for: X Passage □ Adoption □ Introduction □ Rejection | Confirmation Tabling | ☐ Concurrence ☐ Indefinite Postponement ☐ Nonconcurrence | | | | | | |
| Committee Member | | <u>Aye</u> | <u>No</u> | <u>Absent</u> | Not Voting | | | |
| Senator Spencer Cogg | s, Chair | X | | | | | | |
| Senator Robert Wirch | | X | | | | | | |
| Senator John Lehman | | A | | | | | | |
| Senator Alan Lasee | | Ø | | | | | | |
| Senator Glenn Grothma | an | | 区 | | | | | |
| | Total | s: <u>4</u> | 1 | | | | | |



Department of Employee Relations

Tom Barrett

Maria Monteagudo

Michael Brady Employee Benefits Director

Troy M. Hamblin Labor Negotiator

Assembly Bill 81/Senate Bill 49 Committee on Labor/Committee on Labor, Elections and Urban Affairs March 18, 2009/March 19, 2009

Dear Chairperson and Committee Members:

My name is Maria Monteagudo and I am the Director of the Department of Employee Relations for the City of Milwaukee. Thank you for the opportunity to testify in support of AB 81/SB 49 relating to procedures for filling vacant civil service positions in the City of Milwaukee.

Throughout my testimony today will focus on why the City of Milwaukee needs the proposed change. I will briefly explain the current process we currently use to fill vacant civil service positions in the City of Milwaukee and will identify for you the impact the proposed change will have in terms of our ability to expand the number of individuals who can be certified for interviews and potential employment. Finally, I will summarize how Milwaukee compares to other jurisdictions in terms of local control and flexibility.

THE CURRENT SYSTEM

Section 63.39 of the Wisconsin State Statute allows the City of Milwaukee to fill vacant positions through open competitive examination.

In preparing, designing, and conducting these **examinations** we have to adhere to the federal uniform guidelines on selection and testing. This means that all examinations have to be valid and the test results have to be reliable.

Examinations may consist of several **components**: Written exam, Performance exam, T& E questionnaire rating, and Oral boards.

Test scores resulting from one or more examination components are used to create **civil service eligible lists**. The top 3 (for union positions) or the top 5 candidates for management positions **are certified** and **referred to City departments for interviews**. In both cases one additional person can be certified for each additional vacancy.

Placement on the eligible lists therefore **determines** whether an individual will be **referred** to the operating department for an interview.

EXAMPLE: for a Librarian I position, under the current system the following individuals would be certified:

The # 1 person on the eligible list with a score of 98, the # 2 person with a score of 96, and the # 3 person with a score of 95. **Under the current system** if there are other individuals with a score of 95, only one individual is certified based on tie breaking criteria.

The tie breaking criteria is not necessarily based on merit principles or factors that are relevant in determining successful job performance. They are:

Seniority if tied individuals are already in the classified service; (**City seniority** and not seniority in a classification related to the position in question)

Current standing in classified service; (not necessarily job related)

By experience rating; (not rated as part of the examination)

Length of City residency for the period of time preceding the date of the exam.

If everything else fails, ties are broken by date and time of application.

Reasons for the Proposed Change

- (1) Under the current system candidates with the same scores are treated differently. This is not consistent with our responsibility to ensure that similarly qualified candidates are able to compete for a vacancy.
- (2) The tie breaking criteria is not job related. There should be no need for tie breaking criteria because candidates with the same test scores should be treated the same.
- (3) To select the best candidates for the job, City hiring departments should have flexibility and choice. The **examination process is designed to determine** if applicants possess the **minimum KSA**'s to perform the job, not the best qualified person for a particular vacancy. One eligible list may be used to fill several positions across City Departments. Positions vary by departments and a broader certification rule would allow more flexibility in **matching individuals to jobs**.

EXAMPLE: Civil Engineer TEST: measures knowledge of general engineering principles.

Departmental Interview: assesses applicant's expertise in specific engineering area (transportation, environmental, water distribution). The certification process does not take into account the specialization area. The department only receives 3 names and those individuals may not have the appropriate specific background for the vacancy to be filled.

Tests don't include Background/Reference Checks. These are done as part of the interview process. They assess motivation, initiative, and work ethics. A bad reference check may not be enough to strike an individual from an eligible list. The department is then limited to only two choices.

(4) A broader certification rule would increase efficiency in filling vacancies. For purposes of efficiency, we have shifted to using more generic examinations that can produce candidates for multiple vacancies with similar requirements. The ability for departments to expand the number of people who can be interviewed will most likely increase their willingness to use comparable eligible lists.

Comparison to Other Jurisdictions

The City of Milwaukee Board of City Service Commissioners is the only civil service board created under State Statute which does not have authority to establish by rule the number of persons to be certifies for appointment from eligible lists. In contrast, the Milwaukee County Civil Service Commission may set the number of persons certified by rule (this number may not be less than 5). The County certifies 10 names for each vacancy with two additional names for each additional vacancy.

The **State of Wisconsin** certifies any number of names from lists based on statistical methods and personnel management principles that are designed to maximize the number of individuals being considered.

The City of Milwaukee Fire and Police Commission has the ability top adopt rules that establish the selection and appointment of persons employed in the police and fire departments.

Final Remarks

The proposed change recognizes that the City of Milwaukee has a vested interest in creating and maintaining personnel practices that meet the needs of its operating departments while complying with applicable employment regulations.

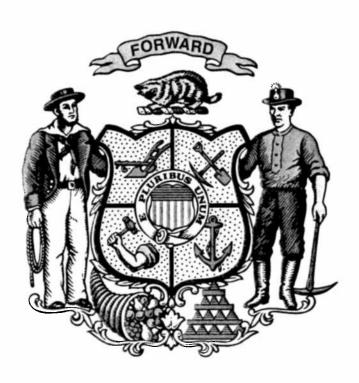
The Board is in a better position to determine the rules and procedures that support valid and reliable testing procedures. The state legislation has recognized the principle of delegating control over such matters to others such as Milwaukee County (1983) and the state of Wisconsin (1978 and 1997).

Milwaukee's ability to retain control over this important issue is critical as we strive to meet the needs of our departments. In the pursuit of qualified persons to fill vacancies, the City of Milwaukee must compete in the same labor market as other public and private employers. The restrictions under 63.39, only applicable to Milwaukee, do not provide a level playing field.

The amendment would result in City departments having access to an expanded pool of candidates to choose from and eliminate the challenges associated with not being able to certify individuals with the same test scores.

The ability to establish by rule the number of candidates to be certified will hold the Commission, my staff and I responsible for the integrity of this process and will put us in a better position to meet our needs.

Thank you.





WISCONSIN STATE ASSEMBLY **Christine Sinicki** STATE REPRESENTATIVE

Remarks on 2009 Assembly Bill 81

March 19, 2009

Honorable Chairman and members:

In November of 2005, along with Representative Lothian and others, I introduced 2005 Assembly Bill 848 to revise the civil service hiring process in the City of Milwaukee. The bill passed Urban and Local Affairs on a 7-1 vote. The bill was promptly bottled up in the Rules committee and was not scheduled for a vote on the floor. We reintroduced it in the following session as Assembly Bill 841. This session, I have reintroduced the exact same bill, 2009 Assembly Bill 81.

The City of Milwaukee, because of its unique status as Wisconsin's only first class city, is required to have a civil service commission. One of the commission's responsibilities is to oversee the civil service examinations given by the city and to maintain lists of eligible persons who take civil service examinations in the hopes of landing a civil service position with the city. If a vacancy occurs in a non-management position, and the appointing authority does not fill the vacant position by reinstatement, promotion or reduction, the commission must certify to the appointing authority, from the list of eligible candidates, the three persons ranked highest on the list. Likewise, if a vacancy occurs in a management position, the commission certifies to the appointing authority five eligible candidates (or the top 10 percent if there are more than 50 applicants).

This formula for evaluating people became known among the Milwaukee's civil service as "Rule of Three". The "Rule of Three" law dictates that the city of Milwaukee limits its consideration of prospective job applicants to only those applicants who have achieved one of the top three scores in the city's civil service examination. This rule means that hiring authorities may not consider applicants based on prior work history, former employer recommendations, how the applicant behaves in real life, in interviews, on phone, and many other criteria commonly used by other hiring authorities across this state. For instance, this test can not test for positive attitude, a trait many employers deem critical.

This rule was originally passed in the late 1800's and was written to protect the state's civil service from patronage and cronyism. Since then, employment law has changed to

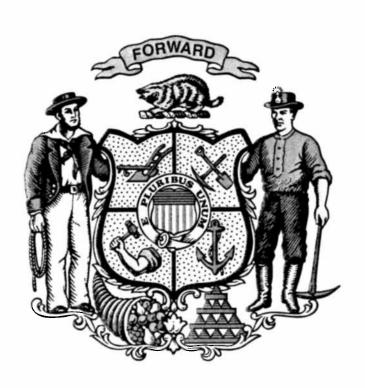


WISCONSIN STATE ASSEMBLY Christine Sinicki STATE REPRESENTATIVE

require that all employees be considered "fairly and objectively". Because this component of current employment law protects employees, the State of Wisconsin eliminated the "Rule of Three" requirement in its civil service hiring process in 1997. At that time, Milwaukee was left out.

Lets update this law by eliminating this archaic bureaucratic method of filling civil service positions. Passage of this bill will make it so the commission can certify to the appointing authority *any number* of eligible candidates ranked highest on the list. Also, under this bill, individuals with the same score will be certified for consideration. This increased flexibility in the certification process could potentially reduce hiring costs for the City by making unsuccessful recruitments less likely.

I sincerely hope you will join me in voting for this common sense modernization of the Milwaukee's civil service hiring process. Thank you for listening.





LENA C. TAYLOR Wisconsin State Senator • 4th District

HERE TO SERVE YOU!

Testimony of Senator Lena C. Taylor
Senate Committee on Labor, Elections and Urban Affairs
Senate Bill 49 – Civil Service Commission Reform
Thursday, March 19, 2009

Honorable Chairman Coggs and members of the committee:

Thank you for taking testimony on Senate Bill 49 a simple bill relating to filling vacant civil service positions in the City of Milwaukee. I am pleased to partner with Rep. Christine Sinicki in authoring this bill.

Currently, under state law, the Milwaukee Civil Service Commission may certify to the appointing authority only the top three candidates for non-management positions or the top five persons for managerial jobs.

This is a problem because deserving job seekers who have scored well on exams have been unfairly excluded from consideration simply because their scores were identical to others. The commission has been required to arbitrarily select, for example, only three non-management candidates, even if four or five or more had identical scores that should have qualified them.

Under this bill, the commission may correct that unfairness by using it's discretion to certify any number of eligible candidates ranked highest on the list, and all persons on the list with the same test score must be included on the same certification.

This is a common sense, simple solution to this problem, which is supported by the City of Milwaukee.

I encourage your support of this bill, which was approved by this committee and passed the Senate last year.

Thank you.



WISCONSIN STATE LEGISLATURE





Department of Administration Budget and Policy Division Tom Barrett Mayor

Sharon Robinson Director of Administration

Paul Vornholt
Director of Intergovernmental Relations

2009 Senate Bill 49 and Assembly Bill 81:
Proposal to Change the Civil Service Certification Process for Cities of the First Class

When the City of Milwaukee has a position vacancy and performs an external recruitment and examination for candidates, it is required to score the examinations and certify the top 3 names for referral to the appointing department. This process is referred to as the "rule of three" and is required under Chapter 63.39, Wisconsin Statutes. For management and supervisory positions, the number of names certified is expanded to five.

For instance, out of 50 applicants, there may be one score of 99, six scores of 98 and numerous other scores above the passing grade of 70. The City is able to certify the person scoring 99, and only two of those scoring 98 for hiring consideration. The ranking process often omits candidates who have the same score on the examination, by re-ranking them under a tie-breaking procedure. There is no flexibility for large pools of applicants or different job classifications.

The City of Milwaukee is the only entity in the state subject to this outdated rule. It used to be a requirement of the State of Wisconsin's civil service system, but was amended due to recommendations adopted from the 1977 Stevens-Offner Report of the Employment Relations Study Commission. At that time, the rule was revised to allow for certification of up to 5 names, or up to ten for applicant pools exceeding 50. In 1997, Wisconsin Act 307 further amended the state's civil service provisions to eliminate the requirement of any fixed number of certified names entirely.

The old city and state certification rules date back to the late 1800's and were premised upon human resource management conditions which are no longer applicable in the United States. The rules were established by lawmakers who were nobly trying to eliminate political patronage and ensure fairness in the hiring process. However, federal employment legislation over the years has dramatically changed the human resources environment to one where public employers are now required to fairly and objectively consider employment for all individuals. The "rule of three" now creates an unintentional artificial barrier to employment for some, by not permitting the city to consider similarly qualified applicants.

In particular, the rule can create an imbalance in the city's workforce. The expansion of eligible lists will make it more likely that appointing authorities will have opportunities to appoint women, minorities and handicapped applicants to vacancies. It will also acknowledge that the examination process is not designed to test all critical skills and abilities for each position. Hiring interviews and reference checks are post-examination steps intended to assess attributes such as motivation, performance under pressure, honesty, reliability, and work ethic.

<u>Proposal: Amend 63.39 (1)(2) and (3), Wisconsin Statutes to allow the City of Milwaukee, Board of City Service Commissioners to establish by rule the number of test scores to be used in certifying eligible candidate lists.</u>

The City competes in the same job market as other local private and public employers and the restrictions in 63.39 inhibit a level playing field. The proposed amendment would allow the Board of City Service Commissioners to establish appropriate rules to certify names of candidates by test score according to job classification. Consequently, city departments would have an expanded pool of applicants to choose from – ensuring the best candidates are chosen for each position. The additional flexibility will facilitate attracting, developing, and maintaining a qualified and representative workforce, thereby ensuring efficient delivery of city services.

For more information, please contact:

Jennifer Gonda, Senior Legislative Fiscal Manager (414) 286-3492 or jgonda@milwaukee.gov



(Senate Bill 494

Committee on Labor, Elections and Urban Affairs

Dear Chairman Coggs and Committee Members:

My name is Maria Monteagudo and I am the Director of the Department of Employee Relations with the City of Milwaukee. Thank you for the opportunity this afternoon to testify in support of SB 494 relating to procedures for filling vacant civil service positions in the City of Milwaukee. My testimony today will focus on two issues:

- A summary of the current process we currently use to fill vacant civil service positions in the City of Milwaukee;
- The challenges associated with the current certification provisions and the reasons this bill is needed.

THE CURRENT SYSTEM

DER is the City agency responsible for **ensuring that all personnel transactions** and practices are carried out in compliance with state statutes, City service rules and other state and federal employment laws. Our Departments staffs the Board of **CSC** created by state statute to enforce and implement civil service **provisions as outlined by** Wisconsin State Statutes **63.18** to **63.53**.

Section 63.39 of the Wisconsin State Statute allows the City of Milwaukee to fill vacant position through:

Reinstatement:
Promotion;
Reduction (demotion)
Or open competitive examination.

As you may know, the City is required to conduct examinations in compliance with uniform guidelines on selection and testing.

What does this mean?

It means that all examinations have to be based on information gathered through a
job analysis process. This is a process that identifies the position's critical
responsibilities and rates each responsibility in terms of importance, difficulty and
frequency. The process also determines the KSA's needed for successful on the job
performance.

For every civil service examination we generally follow these steps:

- A JOB ANALYSIS is conducted and information is used in developing the JOB ANNOUNCEMENT.
- 2. After a **RECRUITMENT** period, job applications are screened and reviewed and candidates who meet required qualifications are invited to participate in the examination. The examination may consist of one or more components:

Written exam
Performance exam
T& E questionnaire rating
Oral board

- One or more of the aforementioned examination components is used to generate scores
 for candidates and create civil service eligible lists. Civil service eligible lists are used to
 fill vacant positions for which the lists are created and comparable positions when
 appropriate.
- 4. Once the eligible list is generated, the top candidates are certified and referred to City departments for interviews. Placement on the eligible lists determines whether an individual will be referred to the operating department for an interview.

The current regulations allow the **top 3** individuals (not scores) to be certified for union **positions** and the **top 5** for managerial positions. In both cases one additional person can be certified for each additional vacancy.

So for example for a union position, the staff would certify individuals as follows:

The #1 person with a score of 98, #2 person with a score of 96, #3 person with a score of 95. **Under the current system** if there are other individuals with a score of 95, only one individual is certified based on tie breaking criteria. The **tie breaking** criteria is **not necessarily based** on **merit principles** or **factors that are relevant** in determining successful job performance.

Seniority if tied individuals are already in the classified service; (**City seniority** and not seniority in a classification related to the position in question)

By whether the applicant has current standing in classified service; (not necessarily job related)

By experience rating; (not rated as part of the examination)

By residency in the City for the greatest period of time preceding the date of the examination.

If everything else fails, ties are broken by date and time of application.

Why do we need the change?

The proposed language would allow the CSC to certify eligible candidates ranked highest on the list based on rules established by the commission. Also under the bill, all persons on the list with the same test score must be included on the same certification.

The proposed change to the statute recognizes that the City of Milwaukee has a vested interest in creating and maintaining personnel practices that meet the needs of its operating departments while complying with applicable employment regulations.

The Board is in a better position to determine the rules and procedures that support valid and reliable testing procedures. The state legislation has recognized the principle of delegating control over such matters to others such as Milwaukee County (1983) and the state of Wisconsin (1978 and 1997).

Rationale for Change

- (1) Candidates with tied scores are treated differently. This is not consistent with our responsibility to provide access and opportunity to similarly qualified individuals.
- (2) The tie breaking criteria is not job related. There should be no need for tie breaking criteria because candidates with the same test scores should be treated the same.
- (3) To select the best candidates for the job, City hiring departments should have more choice. The examination process is designed to determine if applicants possess the minimum KSA's to perform the job, not the best qualified person for a particular vacancy. One eligible list may be used to fill several positions across City Departments. A broader certification rule would allow more flexibility in matching individuals to jobs.

EXAMPLE:

Civil Engineer TEST: measures candidate's knowledge of general engineering principles.

Departmental Interview: assesses applicant's expertise in specific engineering area (transportation, environmental, water distribution).

Background/Reference Check: assesses motivation, initiative, work ethic.

(4) A broader certification rule would increase efficiency in filling vacancies. The ability for departments to expand the number of people who can be interviewed will most likely increase their willingness to use comparable eligible lists.

Final Remarks

The restrictions imposed by the current certification provisions in the statutes are based on conditions and assumptions regarding human resources management practices that are no longer applicable.

Over the years, employment related legislation both at the federal and state levels, has dramatically impacted almost every facet of employment by requiring organizations to fairly and objectively provide access and opportunity to all qualified individuals, including those who may have been excluded from full participation in the past.

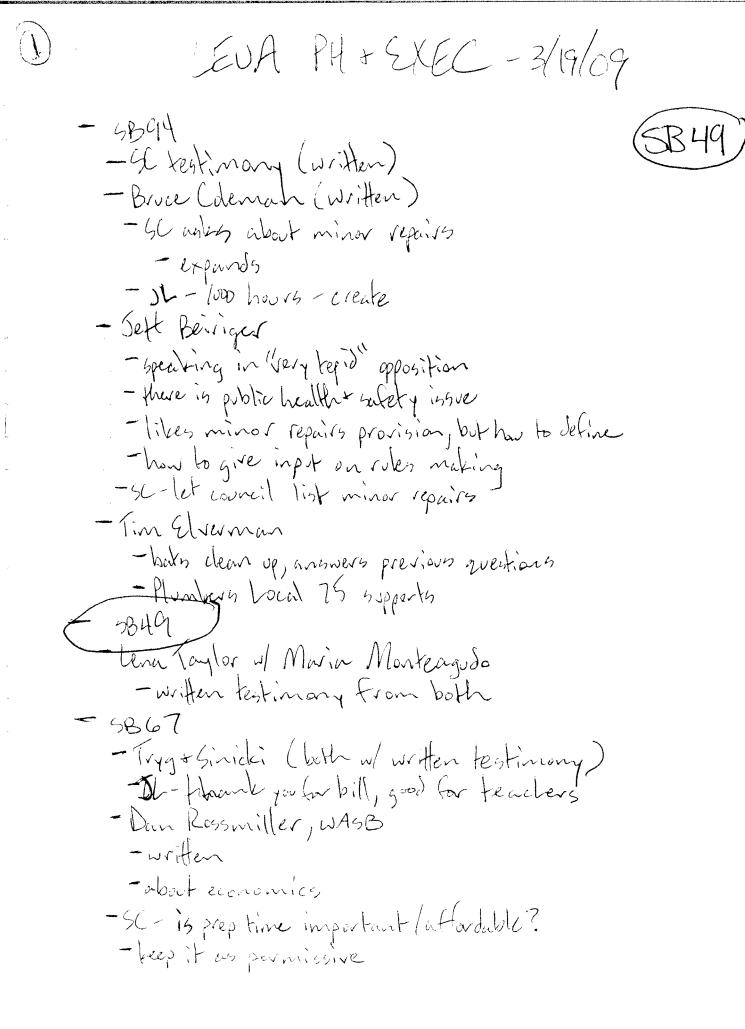
Milwaukee's ability to retain control over this important issue is critical as we strive to **meet the needs of our departments.** In the pursuit of qualified persons to fill vacancies, the City of Milwaukee must **compete in the same labor market as other public and private employers**. The restrictions under 63.39, only applicable to Milwaukee, **do not provide a level playing** field.

SB 494 would go a long way in our efforts to modernize civil service practices to be consistent with those granted by the legislature to the state of Wisconsin, Milwaukee County and other municipalities.

The amendment would result in City departments having access to an expanded pool of candidates to choose from and eliminate the challenges associated with not being able to certify individuals with the same test scores.

The ability to establish by rule the number of candidates to be certified will hold the Commission, my staff and I responsible for the integrity of this process and will put us in a better position to meet our needs.



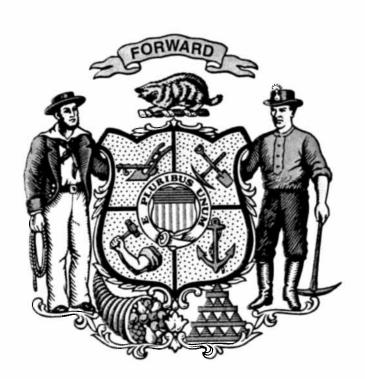




LEUA - Exec+PH - 4/14/09

5820 :- Russ explains out based on Kerls memo = 50 points out WE Counties change of support w/sub - oftensive to biz. - penaltier too high - affy fees too high - you't shouldn't get exemption (thinks totally off the hook) - biz. W/ 16 employees -Which - cost of doing biz. -don't control aty feer - Jorit use China as paragon of virtue ->> 3-2 vote on adoption of amendment - GG - many claims found to have no probable cause - putting full burden on businesses -curtempt for business Thrower't seen need for change - unfair to biz, will regatively after employees too - BW - hurble is offices Temployer can be bad actor - level playing field for employee - need to allow for Jay in court -AL - bill could be tolerable of any officer time, but economy right now makes it a load idea - one more mul in the cottin for line - hild for a year, Just see need

BW- Tonny Thonyson gold the state - bad northing State's prospects reconouncy - AL+66 are only pointing out negatives At-not bed marthing econ, unemployment rates 66 - 15% reach Abable cause - Frivolous, bitter claims filed - biz. also penalized by attys fees - putting WI at disadvantage - Find more daines in MHE Co., Go will go to district - wants to visit on a Manday or Friday BW- no one in audience for victims 75B49-no discussion - 4-1 95867 - 5L- sky won't fall w/ bill ~ GG-agree, but schools will get worse - 4 chools are for students, not teachers > 3-2 vote -5894 - Russ describes amendment - amendment 5-0, bill 4-1 Public Hearing - 5B161/AB194 - Taylor & Grigsby - both brose written testimony Terror rates are national embarrasment - doing this, Con the employees - cooperation we county board in some items based in



- Home
- Lobbying in Wisconsin
- Organizations employing lobbyists
- Lobbyists

Presented by the Wisconsin 4 Government Accountability Board

as of Wednesday, March 18, 2009

2009-2010 legislative session

Legislative bills and resolutions

(search for another legislative bill or resolution at the bottom of this page)

Senate Bill 49

changing the procedures for filling vacant civil service positions in the city of Milwaukee.

TEXT sponsors LBR analysis

STATUS committee actions and votes

text of amendments

COST & HOURS

of lobbying efforts directed at this proposal

| Organization | | _ | | Place pointer on icon to display comments, click icon to display prior comments | | |
|--------------|-----------|--|------------------|---|----------|--|
| Profile | Interests | These organizations have reported lobbying on this proposal: | Date Notified | Position | Comments | |
| • | • | City of Milwaukee | 2/13/2009 | 1 | | |
| • | ٥ | Milwaukee Police Association | 2/16/2009 | () | ` | |

Select a legislative proposal and click "go"

House

Assembly Senate

Resolution

Proposal Type

Joint Resolution

Proposal Number

(enter

proposal number)

Legislative Session 2009 Regular Session ▼

49

Go